

House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 161

SENATE BILL 1316

AN ACT

AMENDING SECTION 4-203.04, ARIZONA REVISED STATUTES; RELATING TO LIQUOR
LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-203.04, Arizona Revised Statutes, is amended to
3 read:

4 4-203.04. Direct shipment license; issuance; fee; requirements;
5 penalties; cease and desist orders

6 A. The director may issue a direct shipment license to ~~an out-of-state~~
7 A person who is engaged in business as a distiller, vintner, brewer,
8 rectifier, blender or other producer of spirituous liquor if the person is
9 licensed in the state where the person's principal place of business is
10 located and the director determines that the person is capable and reliable
11 and is qualified to hold a direct shipment license.

12 B. A person shall apply for a direct shipment license on a form
13 prescribed by the director. The director may charge an application fee. In
14 addition to other matters required by the director, an application for a
15 direct shipment license shall include:

16 1. The address of the ~~out-of-state~~ premises where the applicant's
17 principal place of business is located and a copy of the applicant's
18 spirituous liquor license in that state.

19 2. The name, address and telephone number of an officer of the
20 applicant who is authorized to represent the applicant before the director.

21 3. A complete and full disclosure by the applicant and by any officer,
22 director, administrator or controlling person of the applicant of any
23 criminal convictions in any state or foreign jurisdiction within the five
24 years immediately preceding the application.

25 4. The names and addresses of the wholesalers licensed in this state
26 through which the applicant will ship spirituous liquor into OR WITHIN this
27 state.

28 5. The number of individual orders of spirituous liquor, if any, that
29 the applicant shipped to wholesalers in this state during the previous three
30 years and the names and addresses of each wholesaler who received the
31 shipments.

32 6. A statement that the applicant acknowledges that shipments by the
33 applicant of spirituous liquor into OR WITHIN this state contrary to this
34 section will result in the immediate suspension of the applicant's direct
35 shipment license.

36 C. The director may refuse to issue a direct shipment license for good
37 cause. After a hearing, the director may suspend or revoke a direct shipment
38 license for good cause. The director shall not issue a direct shipment
39 license to any person who:

40 1. Has had a direct shipment license or any license to deal in
41 spirituous liquor revoked in this state or any other state within one year
42 preceding the application.

43 2. Has been convicted of a felony in this state or any other state or
44 has been convicted of an offense in another state that would be a felony if
45 convicted in this state within five years preceding the application.

1 D. A direct shipment license is valid for three years. Direct
2 shipment licenses may not be renewed or transferred. A person who holds a
3 direct shipment license may apply for a new license not more than ninety days
4 before expiration of the person's current license.

5 E. A resident of this state who is twenty-one years of age or older
6 may place an order in person, by telephone, mail or catalog or on the
7 internet for spirituous liquor for the person's own personal use with an
8 ~~out-of-state~~ A person who holds a direct shipment license.

9 F. A person who holds a direct shipment license shall ensure that
10 shipments of spirituous liquor pursuant to this section are made in
11 conformance with all applicable provisions of this title and rules adopted
12 pursuant to this title. A direct shipment licensee who violates this title
13 or rules adopted pursuant to this title is subject to a civil or criminal
14 penalty and suspension or revocation of the person's license.

15 G. A person who holds a direct shipment license shall deliver
16 spirituous liquor ordered pursuant to subsection E of this section to a
17 wholesaler who is licensed in this state. The wholesaler shall pay all
18 luxury taxes imposed on the shipment pursuant to title 42, chapter 3 to the
19 department of revenue and shall deliver the liquor to a retailer with
20 off-sale privileges who is licensed in this state.

21 H. The licensed retailer shall deliver the spirituous liquor or shall
22 arrange for the delivery of the spirituous liquor to the person who placed
23 the order and shall collect and pay to the department of revenue all
24 transaction privilege taxes imposed pursuant to title 42, chapter 5. The
25 retailer shall:

26 1. Ensure that:

27 (a) The person making the delivery is twenty-one years of age or
28 older.

29 (b) The delivery occurs only during the hours that spirituous liquor
30 may be lawfully served in this state.

31 (c) Deliveries are not made to persons who are obviously intoxicated
32 or are otherwise disorderly.

33 (d) The person accepting the delivery is twenty-one years of age or
34 older and exhibits an acceptable written instrument of identification
35 pursuant to section 4-241.

36 2. Make a record of the delivery at the time of delivery on a form
37 approved by the director of the department of liquor licenses and control.
38 The record shall be retained by the retailer for at least two years and shall
39 include the following information:

40 (a) The business name, address and license number of the retailer.

41 (b) The date and time of delivery.

42 (c) The address where the delivery occurred.

43 (d) The type, brand and amount of the spirituous liquor delivered.

44 (e) The printed name and signature of the person making the delivery.

1 (f) The printed name and signature of the person accepting the
2 delivery, along with the type and serial number of the written identification
3 the person accepting delivery presented.

4 (g) The age of the person accepting delivery.

5 3. Refuse to complete a delivery if the retailer believes that the
6 delivery would violate any applicable provision of this title.

7 I. If the director has reasonable cause to believe that a person who
8 is licensed pursuant to this section is acting in violation of this section,
9 the director may serve a cease and desist order requiring the person to cease
10 and desist the violation. The director may impose a civil penalty of not
11 more than one hundred fifty thousand dollars against a person who knowingly
12 violates a cease and desist order issued pursuant to this section.

13 J. This section shall not be construed to prohibit a person from
14 shipping wine to consumers in this state as long as all of the following
15 apply:

16 1. ~~The person is not directly or indirectly, or through an affiliate,~~
17 ~~engaged in the business of producer of spirituous liquor or in buying, or~~
18 ~~selling or dealing in spirituous liquor.~~

19 2. ~~The person ships only as a convenience for consumers who are~~
20 ~~physically present at the person's retail location in the other state.~~

21 3. ~~The person is a common carrier.~~

22 4. ~~The person ships only wine to the customer.~~

23 5. ~~The person ships no more than one case of wine annually to any one~~
24 ~~consumer.~~

25 6. ~~The person ships to the consumer's residence address and not to any~~
26 ~~business address.~~

27 1. THE WINE WAS PURCHASED WHILE THE PURCHASER WAS PHYSICALLY PRESENT
28 AT THE WINERY.

29 2. THE PURCHASER OF THE WINE PROVIDED THE WINERY VERIFICATION OF LEGAL
30 AGE TO PURCHASE ALCOHOL.

31 3. THE SHIPPING CONTAINER IN WHICH THE WINE IS SHIPPED IS MARKED TO
32 REQUIRE AN ADULT'S SIGNATURE ON DELIVERY AND DELIVERY CONFIRMATION.

33 4. THE WINE IS FOR PERSONAL USE ONLY AND NOT FOR RESALE.

34 5. THE WINERY SHIPS TO A RESIDENTIAL ADDRESS.

35 6. THE PURCHASER COULD HAVE CARRIED THE WINE LAWFULLY INTO THIS STATE.

36 7. THE WINERY SHIPS NOT MORE THAN TWO CASES OF WINE PER WINERY TO THE
37 PURCHASER IN ANY CALENDAR YEAR.

38 K. Section 4-201 does not apply to licenses issued pursuant to this
39 section.

APPROVED BY THE GOVERNOR MAY 6, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2003.

Passed the House April 14, 20 03,


by the following vote: 58 Ayes,

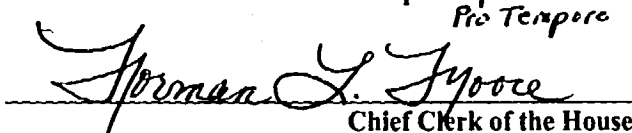
2 Nays, 0 Not Voting

Passed the Senate March 17, 20 03,


by the following vote: 21 Ayes,

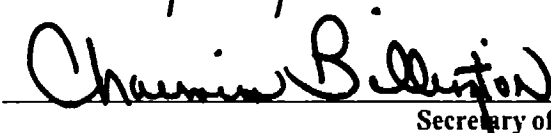
9 Nays, 0 Not Voting



Speaker of the House
Pro Tempore


Herman L. Tyoore
Chief Clerk of the House



President of the Senate


Chairman Benton
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1316

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 30, 2003,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

Klu Bennett
President of the Senate
Charmian Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2003,

at 3:37 o'clock P M.

Sandra Chamber
Secretary to the Governor

Approved this 6 day of

May, 2003,

at 2¹⁵ o'clock P M.

Jon Napolitano
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6 day of May, 2003

at 4:26 o'clock P M.

Janice L. Brewer
Secretary of State

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